

# **EXHIBIT E**

MAR-06-2003 15:15

ORIGINAL

U.S. COURTS HAWAII

888 541 1303 P.02/06  
DISTRICT OF HAWAII

MAR 6 2002

at 3 o'clock and 40 min  
WALTER A. Y.H. CHINN/CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY,

Plaintiff,

vs.

FLEMING COMPANIES, INC., aka  
FLEMING FOODS, INC., aka  
FLEMING,  
DOE INDIVIDUALS 1-50 AND  
DOE PARTNERSHIPS,  
CORPORATIONS AND OTHER  
ENTITIES 1-20,

Defendants.

) CIVIL NO. 01 00446 SPK LEK

) SPECIAL VERDICT FORM

SPECIAL VERDICT FORM

A. FREIGHT CONTROL SYSTEM SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Freight Control software attached to Exhibit 221?

Yes ☒

No ☐

If "YES" go to next question.  
If "NO", skip to section B.

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2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Freight Control software.

Yes ☒

No ☐

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Freight Control software.

Yes ☒

No ☐

If "NO" skip to section B.

If "YES" go to next question.

4. Was the infringement of the Freight Control software copyright willful?

Yes ☒

No ☐

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of Freight Control System software?

\$99,250.00

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**B. CRYSTAL REPORTS SOFTWARE**

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Crystal Reports software attached to Exhibit 222?

Yes ☒

No ☐

If "NO", skip to section C.  
If "YES" go to next question.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Crystal Reports software.

Yes ☒

No ☐

If "YES" go to next question.  
If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Crystal Reports software.

Yes ☐

No ☒

If "NO" skip to section C.  
If "YES" go to next question.

4. Was the infringement of the Crystal Reports software copyright willful?

Yes ☐

No ☐

Go to the next question.

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5. What amount of damages is Wayne Berry entitled to for the infringement of Crystal Reports software?
- \_\_\_\_\_

C. FLEMINGPO.EXE SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the FlemingPO.exe software attached to Exhibit 223?

Yes ☒

No \_\_\_\_\_

If "YES" go to next question.  
If "NO", skip to the end.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the FlemingPO.exe software.

Yes ☒

No \_\_\_\_\_

If "YES" go to next question.  
If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the FlemingPO.exe software.

Yes \_\_\_\_\_

No ☒

If "NO" skip to the end.  
If "YES" go to next question.

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4. Was the infringement of the FlemingPO.exe software copyright willful?

Yes \_\_\_\_\_

No \_\_\_\_\_

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of FlemingPO.exe software?

\_\_\_\_\_

Please sign and date this Special Verdict Form.

[Signature]  
Jury Foreperson

[Signature]

[Signature]

[Signature]

[Signature]

Carol Ho Akemoto

[Signature]

[Signature]

[Signature]

Date

3/6/03